

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of ROBIN TERESA MUNDAY and U.S. POSTAL SERVICE,  
VILLAGE BRANCH POST OFFICE, Oklahoma City, OK

*Docket No. 01-838; Submitted on the Record;  
Issued November 1, 2001*

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DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,  
A. PETER KANJORSKI

The issue is whether appellant has met her burden of proof in establishing that she is entitled to a schedule award.

Appellant, a 31-year-old mail carrier, filed a notice of occupational disease on September 18, 1999 and alleged that she experienced pain in both feet due to factors of her federal employment. The Office of Workers' Compensation Programs accepted appellant's claim for bilateral hallux and bunion deformity. Appellant requested a schedule award on July 25, 2000. By decision dated January 19, 2001, the Office denied appellant's claim finding that she failed to submit any medical evidence.

The Board finds that appellant has failed to meet her burden of proof in establishing that she is entitled to a schedule award.

The schedule award provisions of the Federal Employees' Compensation Act<sup>1</sup> and its implementing regulation<sup>2</sup> set forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss, or loss of use, of scheduled members or functions of the body. However, the Act does not specify the manner in which the percentage of loss shall be determined. For consistent results and to ensure equal justice under the law to all claimants, good administrative practice necessitates the use of a single set of tables so that there may be uniform standards applicable to all claimants. The American Medical Association, *Guides to the Evaluation of Permanent Impairment* has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.

Before the A.M.A., *Guides* can be utilized, a description of appellant's impairment must be obtained from appellant's physician. In obtaining medical evidence required for a schedule

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<sup>1</sup> 5 U.S.C. §§ 8101-8193, § 8107.

<sup>2</sup> 20 C.F.R. § 10.404 (1999).

award, the evaluation made by the attending physician must include a description of the impairment including, where applicable, the loss in degrees of active and passive motion of the affected member or function, the amount of any atrophy or deformity, decreases in strength or disturbance of sensation, or other pertinent descriptions of the impairment. This description must be in sufficient detail so that the claims examiner and others reviewing the file will be able to clearly visualize the impairment with its resulting restrictions and limitations.<sup>3</sup>

In this case, the record does not contain any description of appellant's impairment from a physician. Appellant submitted notes from a physical therapist. However, a physical therapist is not considered a physician under the Act,<sup>4</sup> and therefore these notes do not constitute medical evidence and are insufficient to meet appellant's burden of proof.<sup>5</sup>

The January 19, 2001 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC  
November 1, 2001

Michael J. Walsh  
Chairman

Willie T.C. Thomas  
Member

A. Peter Kanjorski  
Alternate Member

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<sup>3</sup> *Robert B. Rozelle*, 44 ECAB 616, 618 (1993).

<sup>4</sup> 5 U.S.C. § 8101(2).

<sup>5</sup> Appellant submitted additional new evidence to the Board on appeal. As the Office did not review this evidence in reaching a final decision, the Board will not consider it on appeal. 20 C.F.R. § 501.2(c).